



# Application for Voluntary Disclosure

## Purpose

The purpose of the Franchise Tax Board's (FTB) Voluntary Disclosure Program is to encourage out-of-state banks or corporations and certain shareholders that may have incurred an unpaid California tax liability and/or have an unfulfilled tax return filing requirement to disclose their liability voluntarily. Qualified business entities or shareholders that choose to participate in the Voluntary Disclosure Program will be required to disclose their California tax liability only for the immediately preceding six income years. FTB may waive penalties associated with the return filings.

## General Information

R&TC Section 19191 authorizes the FTB to enter into voluntary disclosure agreements with any qualified business entity or qualified shareholders in order to obtain voluntary compliance with the tax laws of the State of California. Qualified business entities or shareholders that participate in the Voluntary Disclosure Program are required to file returns for the six income years ending immediately prior to the date the agreement is signed. FTB may waive penalties associated with the return filings. As part of the voluntary disclosure agreement, the FTB will waive its authority to assess taxes, additions to taxes, fees, or penalties for the income years ending prior to the six income years covered by the voluntary disclosure agreement.

Qualified business entities or shareholders entering into a voluntary disclosure agreement must fully disclose all material facts pertinent to its franchise or income tax liability. In addition, the qualified business entity or shareholder must file all returns and pay all taxes associated with the income years covered by the agreement within 30 days of the date the agreement is signed. Installment payment arrangements may be entered into in some instances. Failure to adhere to the terms of the agreement will render the agreement null and void.

## Qualified Business Entities

Only qualified business entities are eligible to participate in the Voluntary Disclosure Program. A "qualified business entity" is an entity that meets all of the following criteria. It must:

1. Be a bank or corporation;
2. Have never filed a return with the FTB;
3. Have not been the subject of an inquiry by the FTB with respect to liability for any taxes; and
4. Have voluntarily come forward, prior to any unilateral contact from the FTB, and completed both an application for a voluntary disclosure agreement and a full and accurate statement of its activities in California for the six immediately preceding taxable or income years.

Even if a bank or corporation meets all of the above listed criteria, the bank or corporation will not be considered a "qualified business entity" and will not be eligible to participate in the voluntary disclosure program if it is:

- organized and existing under the laws of California;
- qualified or registered with the Office of the Secretary of State of California; or
- a business entity that maintains and staffs a permanent facility in California. (The storing of materials, goods, or products in a public warehouse pursuant to a public warehouse contract does not constitute maintaining a permanent facility in California.)

## Qualified Shareholders

A qualified shareholder is an individual who is both of the following:

1. A nonresident on the signing date of voluntary disclosure agreement; and

2. A shareholder in an S corporation that has applied for a voluntary disclosure agreement and all the material facts pertinent to the shareholder's liability would be disclosed on that S corporation's voluntary disclosure agreement.

**Important:** Penalties associated with voluntary disclosure will not be waived for income years before the signing date of the agreement in which the shareholder was a California resident. Any penalties or additions to tax attributable to income other than California source income from the S corporation filing the application for voluntary disclosure will not be waived.

## Penalties Waived

If the qualified business entity or shareholder fully complies with the Voluntary Disclosure Agreement, the Franchise Tax Board may not assess any or all of the following penalties for the income years covered by the agreement:

- Section 19131 – failure to make and file a return;
- Section 19132 – failure to pay any amount due by the date prescribed for payment;
- Section 19136 – underpayment of estimated tax;
- Section 19141 – Section 6810 or subdivision (a) of Section 8810 of the Corporation Code (Secretary of State penalty);
- Section 19141.5 – failure to furnish information or maintain records;
- Section 19142 – underpayment of tax;
- Section 19183 – failure to file information returns;
- Section 19172 – late filing of partnership returns; and
- Section 23301.5 – contract voidability. Relief from contract voidability will be granted to a qualified business entity when the terms of the voluntary disclosure agreement are fulfilled.

## Violation of the Agreement

The voluntary disclosure agreement will be null and void if the qualified business entity or shareholder:

- misrepresents material facts relevant to the agreement;
- fails to file returns or pay taxes for the periods covered by the agreement;
- reneges on an installment payment arrangement;
- understates the tax liability for any year covered by the agreement and cannot show a good faith effort to accurately compute the tax liability; or
- fails to continue to comply with California tax law.

## Most Commonly used FTB Booklets, Forms and Publications Relating to Corporations and S Corporation Shareholders

FTB Form 540NR	California Nonresident or part-year Resident Income Tax Return
FTB Form 100	California Corporation Franchise or Income Tax Return
FTB Form 100S	California S Corporation Franchise or Income Tax Return
FTB Form 100WE	Water's-Edge Contract (Booklet)
FTB Pub. 1060	Guide for Corporations Starting Business in California
FTB Pub. 1050	Application and Interpretation of Public Law 86-272
FTB Pub. 1061	Guidelines for Corporations Filing a Combined Report
FTB Pub. 1067	Guidelines for Filing a Group Form 549NR
FTB Pub. 1083	Frequently Asked Questions About California Corporation Taxes

# Instructions for Filing Form 4925 Application for Voluntary Disclosure

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 1997, and the California Revenue and Taxation Code (R&TC).

## Internet

If you have Internet access, you may download, view, and print California income tax forms and the forms and publications listed above. Our Internet address is:

<http://www.ftb.ca.gov>

## Mail

You may obtain these forms and publications by writing to:

**TAX FORMS REQUEST UNIT  
FRANCHISE TAX BOARD  
PO BOX 307  
RANCHO CORDOVA CA 95741-0307**

## Telephone

You may obtain these forms and publications by calling:

From within the United States, Call . . . . . 1-800-852-5711  
From outside the United States, call (not toll-free) . . . . . 1-916-854-6500  
For hearing impaired with TDD, call . . . . . 1-800-822-6268

Qualified business entities or shareholders that choose to participate in the Voluntary Disclosure Program must use form FTB 4925, Application for Voluntary Disclosure, to apply. To remain anonymous, program applicants may have a representative contact the FTB. Company representatives should not reveal the name of the company or shareholders or any information that could readily identify the company to the FTB until the agreement is executed. Program applicants will be assigned an identifying number, such as Anonymous 94-1, which should be used in subsequent correspondence once the application is received by the FTB.

## Part I

Enter the name, address, and telephone number of the qualified business entity or shareholder representative. The representative must be authorized by the bank or corporation to represent it in the Voluntary Disclosure Program. **Note:** Do not disclose the name, address, or telephone number of the qualified business entity or shareholder choosing to participate in the Voluntary Disclosure Program on the application. The bank or corporation should remain anonymous until the Voluntary Disclosure Agreement is executed.

## Part II

1. State the type of business entity or shareholders applying to participate in the Voluntary Disclosure Program.

2. State whether the bank or corporation will file a separate return apportioning income within and without California, or whether the bank or corporation will file on a combined report basis apportioning income within and without California.
3. State each tax year to be covered by the agreement.

## Part III

Answer the questions in Part III. If the qualified business entity or shareholder answers yes to any of the questions in Part III, stop. The corporation does not qualify to participate in the Voluntary Disclosure Agreement Program. If the answers to all the questions in Part III are no, complete Parts IV, V and VI.

## Part IV

Include the following information in Exhibit I:

- a description of the bank or corporation's business activities;
- the facts giving rise to the offer to enter into a Voluntary Disclosure Program;
- a description of the corporation's business activities in California; and
- the settlement terms proposed.

## Part V

On Exhibit 2 include a statement with your estimate of taxes due. Show the accompanying computations.

## Contacting the Franchise Tax Board

All requests to participate in the Voluntary Disclosure Program must be in writing.

Mail form FTB 4925, and its required exhibits to:

**Voluntary Disclosure Program  
PO Box 1779  
Rancho Cordova CA 95741-1779**

The FTB will contact the bank's or corporation's representative if additional information is required. The FTB may accept the bank's or corporation's proposed settlement, modify the proposed settlement, or reject the proposed settlement based on the information available.

**Note:** If the FTB determines that there are any material misstatements of fact or tax liability, or if the bank or corporation fails to file any returns or pay any tax as required by the agreement, the voluntary disclosure agreement will be null and void.



# RUSH!

Mail to: Voluntary Disclosure Program  
PO Box 1779  
Rancho Cordova CA 95741-1779

## Part I

Representative's Name \_\_\_\_\_

Representative's Address \_\_\_\_\_  
\_\_\_\_\_

Representative's Telephone Number (     ) \_\_\_\_\_

## Part II

1. Type of Qualified Business Entity applying for the Voluntary Disclosure Program:

- ☐ Bank  
☐ Corporation  
☐ S Corporation    ☐ S Corporation Shareholder

2. Bank or corporation is a:

- ☐ Single entity doing business within and without California.  
☐ Member of an affiliated group with at least one entity doing business within and without California.

3. Exact income or tax years to be covered by the agreement: \_\_\_\_\_

## Part III

Qualified business entities answer the following questions:

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. Is the bank or corporation organized and existing under the laws of the State of California?                        | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Is the bank or corporation qualified or registered with the Office of the Secretary of State?                       | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Does the bank or corporation maintain and staff a permanent facility in California?                                 | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. Has the bank or corporation ever filed a return with the FTB?   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5. Has the bank or corporation ever been the subject of an inquiry by the FTB with respect to liability for any taxes? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Was the individual a resident on the signing date of the voluntary disclosure agreement? ☐ Yes ☐ No

Did the S corporation, in which this individual is a shareholder, answer yes to any of the questions listed in this Part? ☐ Yes ☐ No

If you answered yes to any of the above questions, STOP. You do not qualify to participate in the Voluntary Disclosure Program. If you answered no to all five questions, go to Part IV.



## Part IV

Include the following information in Exhibit 1:

- A description of the qualified business entity or shareholder business activities;
- The facts giving rise to the offer to enter into a Voluntary Disclosure Agreement;
- A description of the qualified business entity or shareholder business activities in California;
- Whether the company or individual has been contacted by FTB, and if so, the nature of the contacts;
- The settlement terms proposed by the company; and
- If an S corporation, number of shareholders.

Attach additional sheets if necessary.

## Part V

On Exhibit 2 include a statement with your estimate of the amount of taxes due. Show the accompanying computations.

## Part VI

***I declare under penalty of perjury under the laws of the state of California, that I am authorized by the unnamed corporation or shareholder to act as its agent in negotiating a settlement under the FTB's Voluntary Disclosure Program and that the information given above and in the attached Exhibit 1 and Exhibit 2 is true and correct to the best of my knowledge and belief.***

Signature

Date

### FTB's Use Only

Date Received	Assigned Case Number
Accepted	Rejected
Date Sent to FTB	
Date Agreement Signed	Date Returns Filed
Corporation Name	Corporation Number
Individual Name	Total Tax Paid
Social Security Number	
Date Tax Paid	
Total Interest Paid	
Date Case Closed	
Date Tax and Interest Due	



# Request for Voluntary Disclosure

# Exhibit 1

This image shows a full page of blank white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for writing or drawing. There are no margins, text, or other markings present.



# Request for Voluntary Disclosure

## Exhibit 2

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



## Request for Voluntary Disclosure

## This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.